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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,842	02/01/2001	Dirk-Holger Lenz	7058 US	1158

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EXAMINER

CRAIG, DWIN M

ART UNIT	PAPER NUMBER
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2123

DATE MAILED: 03/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 09/775,842	Applicant(s) LENZ ET AL.	
	Examiner Dwin M Craig	Art Unit 2123	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-3, 5 and 7-12 is/are rejected.
- 7) ☒ Claim(s) 4, 6 and 13-15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. **Claims 1-17** have been presented for reconsideration in view of Applicant's arguments.

Response to Arguments

2. The arguments presented in the response dated 12-16-2004 have been fully considered.

The Examiner's response is as follows.

- 2.1 As regards the Applicant's response to the Examiner's objection to **Claim 5**.

The Examiner thanks the Applicant for correction to dependent **Claim 5** and withdraws the earlier objection.

- 2.2 Regarding the Applicant's response to the 35 U.S.C. 102 rejections to Independent **Claims 1 and 16** with respect to *Pearson U.S. Patent 5,903,754*.

Applicant argued,

Claims 1, 16 and 17 recite that the protocol layer has a standardized interface, rather than an interface specific for that protocol layer as in Pearson.

The Examiner respectfully traverses the Applicant's argument. The Examiner notes that in the *Pearson* reference *specifically (Col. 4 lines 32-42)* is disclosed,

Particularly, the invention recognizes that protocol layers can be defined such that each layer performs a specific protocol function and that the interfaces between these protocol layers are necessarily consistent. By implementing a consistent object model, the protocol layers are interchangeable and independently modifiable, and the protocol stack is dynamically modifiable.

The Examiner respectfully asserts that a *consistent* and *interchangeable interface* is functionally equivalent to a *standardized interface*. Further, it is noted by the Examiner that, in the Applicants specification on page 3 is disclosed...

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Equipping protocol layers with standardized interfaces creates the possibility of connecting protocol layers with each other in a simple manner or connecting protocol layers with script interpreters or control components.

The Examiner notes that this enabling description from the Applicant's specification is almost identical to the description in the *Pearson* reference cited by the Examiner. The Examiner respectfully upholds the earlier 35 U.S.C. 102 rejection of **Claim 1** in regards to the *Pearson* reference.

In regards to independent **Claim 16** Applicant further argued,

Also claim 16 further recites that the protocol stack is compiled randomly, rather than sequentially as in Person.

The Examiner has found Applicant's argument to be persuasive and withdraws the 35 U.S.C. 102 rejection of independent **Claim 16**.

2.3 Regarding the Applicants response to the 35 U.S.C. 103(a) rejection of independent **Claim 17** with respect to *Pearson* in view of *Autrey*.

Applicant argued,

Applicant submits that the PIG-tool of Autrey unpacks the OSI protocol layers and converts them to processor instructions, but such unpacking and converting does not teach each emulation layer having a local emulation manager to form an administrative instance.

The Examiner has found this argument to be persuasive and withdraws the 35 U.S.C. 103 rejection of independent **Claim 17**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Independent **Claim 1** and dependent **Claims 2, 3, 5 and 7-12** are rejected under 35 U.S.C. 102(b) as being anticipated by **Pearson U.S. Patent 5,903,754**.

3.1 As regards independent **Claims 1** the *Pearson* reference teaches, apparatus/method of creating a protocol stack (**Figure 1 & 2, Col. 5 Lines 66-67, Col. 6 Lines 1-16**), with a standardized interface (**Figure 3 Items 102, 104, Figure 5 Item 150**), an instance for the administration of the protocol stack that contains a protocol layer (**Figure 6 Item 162**).

3.2 As regards dependent **Claims 2 and 3** the *Pearson* reference discloses a plurality of description files (**Figure 1 Items 42 and 44**).

3.3 As regards dependent **Claim 7** the *Pearson* reference discloses multiple layers of protocol stacks (**Figure 3**).

3.4 As regards dependent **Claims 5, 8-12** the *Pearson* reference discloses a SAP interface (**Figure 5 Item 150**).

Allowable Subject Matter

4. Independent **Claims 16 and 17** are allowed.

4.1 Dependent **Claims 4, 6, 13, 14 and 15** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

5. Claims 16 and 17 are allowed. **Claims 4, 6, 13, 14 and 15** are objected to. Independent **Claim 1** and dependent **Claims 2, 3, 5 and 7-12** are rejected.

5.1 THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5.2 Any inquiry of a general nature or relating to the status of this application should be directed to the TC 2100 Group receptionist: 571-272-2100.


5.3 Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dwain M Craig whose telephone number is 703 305-7150. The examiner can normally be reached on 10:00 - 6:00 M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Teska can be reached on 703 305-9704. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DMC



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